

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FOTOMEDIA TECHNOLOGIES, LLC,

Plaintiff,

V.

**ALLTEL COMMUNICATIONS, INC.,
SPRINT NEXTEL CORPORATION, SPRINT
COMMUNICATIONS COMPANY, L.P.,
DEUTSCHE TELEKOM AG, T-MOBILE
INTERNATIONAL AG & CO. KG,
T-MOBILE USA, INC.,
CELLCO PARTNERSHIP
d/b/a VERIZON WIRELESS, AND VERIZON
TRADEMARK SERVICES, LLC,**

Defendants.

CIVIL ACTION NO 2:07-cv-256-TJW

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff FotoMedia Technologies, LLC (“FotoMedia”) files this Original Complaint for patent infringement against Defendants Alltel Communications, Inc., Sprint Nextel, Sprint Communications Company, L.P., Deutsche Telekom AG, T-Mobile International AG & Co. KG, T-Mobile USA, Inc., Cellco Partnership d/b/a Verizon Wireless, and Verizon Trademark Services, LLC, (collectively “Defendants”).

PARTIES

1. Plaintiff FotoMedia Technologies, LLC, is a Delaware limited liability company having its principal place of business at 155 Fleet Street, Portsmouth, New Hampshire, 03801.

2. Upon information and belief, Defendant Alltel Communications, Inc. is a corporation existing under the laws of Delaware with its principal place of business at One Allied Drive, Little Rock, Arkansas 72202.

3. Upon information and belief, Defendant Sprint Nextel Corporation is a corporation existing under the laws of Kansas with its principal place of business at 2001 Edmund Halley Drive, Reston, Virginia 20191. Upon information and belief, Defendant Sprint Communications Company, L.P. is a limited partnership existing under the laws of Kansas with its principal place of business at 6391 Sprint Parkway, Overland Park, KS 66251-3380. Sprint Nextel Corporation and Sprint Communications Company, L.P. are collectively called the “Sprint Defendants.”

4. Upon information and belief, Defendant Deutsche Telekom AG, is a German corporation with its principal place of business at Friedrich-Ebert-Allee 140, 53113 Bonn, Germany. Upon information and belief, Defendant T-Mobile International AG & Co. KG is a German corporation with its principal place of business at Landgrabenweg 151, 53227 Bonn, Germany. Upon information and belief, Defendant T-Mobile USA, Inc. is a corporation existing under the laws of Delaware with its principal place of business at 12920 SE 38th Street, Bellevue, Washington 98006, Deutsche Telekom AG, T-Mobile International AG & Co. KG, and T-Mobile USA, Inc. are collectively called the “T-Mobile Defendants.”

5. Upon information and belief, Defendant Cellco Partnership d/b/a Verizon Wireless is a corporation existing under the laws of Delaware with its principal place of business at 1 Verizon Way, Basking Ridge, New Jersey 07920. Upon information and belief, Defendant Verizon Trademark Services LLC is a corporation existing under the laws of Delaware with its principal place of business at 1320 North Court House Road, Arlington, VA 22201. Verizon Wireless and Verizon Trademark Services, LLC are collectively called the “Verizon Defendants.”

JURISDICTION AND VENUE

6. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 271.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. The Defendants do business in this State and District and have sufficient contacts to subject them to the personal jurisdiction of this Court for this patent infringement action. The Defendants have placed their products and services, including infringing products and services, into the stream of commerce, knowing or reasonably expecting that such products will be used, sold, or offered to be sold in this State and in this District.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

BACKGROUND

10. On January 25, 2000, the USPTO duly and legally issued United States Patent No. 6,018,774 (“the ’774 patent”), entitled “Method and System for Creating Messages Including Image Information.” FotoMedia holds all right, title, and interest in and to the ’774 patent (a true and correct copy of which is attached hereto as Exhibit A).

11. On April 1, 2003, the USPTO duly and legally issued United States Patent No. 6,542,936 B1 (“the ’936 patent”), entitled “System for Creating Messages Including Image Information.” FotoMedia holds all right, title, and interest in and to the ’936 patent (a true and correct copy of which is attached hereto as Exhibit B).

12. On March 22, 2005, the USPTO duly and legally issued United States Patent No. 6,871,231 B2 (“the ’231 patent”), entitled “Role-Based Access to Image Metadata.” FotoMedia

holds all right, title, and interest in and to the '231 patent (a true and correct copy of which is attached hereto as Exhibit C).

13. Defendant Alltel owns, operates, or otherwise controls photosharing web sites, including <http://www.axcessmypics.com>.

14. The Sprint Defendants own, operate, or otherwise control photosharing web sites, including <http://pictures.sprintpcs.com>.

15. The T-Mobile Defendants own operate, or otherwise control photosharing web sites, including <http://www.t-mobilepictures.com>.

16. The Verizon Defendants own, operate, or otherwise control photosharing web sites, including <http://www.vzwpix.com>.

17. Upon information and belief, Defendants make, use, license, sell, offer for sale, or import in the State of Texas, in this judicial district, and elsewhere within the United States photosharing web site services that alone or in combination with camera phones, personal digital assistants, and personal computers infringe the '774, '936, and '231 patents, as well as related services.

COUNT I: INFRINGEMENT OF THE '774 PATENT

18. FotoMedia realleges and incorporates by reference herein the allegations contained in Paragraphs 1 through 17.

19. Alltel, the Sprint Defendants, the T-Mobile Defendants, and the Verizon Defendants, have been and are now directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of, the '774 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing photosharing web site services alone or in combination with camera phones, personal digital assistants, or personal computers,

as well as related services covered by one or more claims of the '774 patent, all to the injury of FotoMedia.

20. Alltel's, the Sprint Defendants', the T-Mobile Defendants', and the Verizon Defendants' acts of infringement have been willful, deliberate, and in reckless disregard of FotoMedia's patent rights, and will continue unless permanently enjoined by this Court.

21. FotoMedia has been damaged by Alltel's, the Sprint Defendants', the T-Mobile Defendants', and the Verizon Defendants' infringement of the '774 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless Defendants are permanently enjoined from infringing the '774 patent.

COUNT II: INFRINGEMENT OF THE '936 PATENT

22. FotoMedia realleges and incorporates by reference herein the allegations contained in Paragraphs 1 through 17.

23. Alltel, the Sprint Defendants, the T-Mobile Defendants, and the Verizon Defendants have been and are now directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of, the '936 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing photosharing web site services alone or in combination with camera phones, personal digital assistants, or personal computers, as well as related services covered by one or more claims of the '936 patent, all to the injury of FotoMedia.

24. Alltel's, the Sprint Defendants', the T-Mobile Defendants', and the Verizon Defendants' acts of infringement have been willful, deliberate, and in reckless disregard of FotoMedia's patent rights, and will continue unless permanently enjoined by this Court.

25. FotoMedia has been damaged by Alltel's, the Sprint Defendants', the T-Mobile Defendants', and the Verizon Defendants' infringement of the '936 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless Defendants are permanently enjoined from infringing the '936 patent.

COUNT III: INFRINGEMENT OF THE '231 PATENT

26. FotoMedia realleges and incorporates by reference herein the allegations contained in Paragraphs 1 through 17.

27. Alltel, the Sprint Defendants, the T-Mobile Defendants, and the Verizon Defendants have been and are now directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of, the '231 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing photosharing web site services alone or in combination with camera phones, personal digital assistants, or personal computers, as well as related services covered by one or more claims of the '231 patent, all to the injury of FotoMedia.

28. Alltel's, the Sprint Defendants', the T-Mobile Defendants', and the Verizon Defendants' acts of infringement have been willful, deliberate, and in reckless disregard of FotoMedia's patent rights, and will continue unless permanently enjoined by this Court.

29. FotoMedia has been damaged by Alltel's, the Sprint Defendants', the T-Mobile Defendants', and the Verizon Defendants' infringement of the '231 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless Defendants are permanently enjoined from infringing the '231 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff FotoMedia Technologies, LLC prays for the following relief against Defendants:

A. A judgment in favor of FotoMedia that Defendants have infringed, directly and indirectly by way of inducing infringement and/or contributing to the infringement of, FotoMedia's '774, '936, and '231 patents;

B. A permanent injunction, enjoining Defendants and their officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, and parents from infringing, inducing the infringement of, or contributing to the infringement of FotoMedia's '774, '936, and '231 patents;

C. A judgment and order requiring Defendants to pay FotoMedia damages for the infringement of FotoMedia's '774, '936, and '231 patents, together with interest (both pre- and post-judgment), costs and disbursements as fixed by this Court under 35 U.S.C. § 284;

D. A judgment and order finding Defendants' infringement willful and awarding treble the amount of damages and losses sustained by Defendants as a result of their infringement under 35 U.S.C. § 284;

E. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to FotoMedia its reasonable attorneys' fees; and

F. Such other and further relief in law or in equity to which FotoMedia may be justly entitled.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of any and all issues triable of right before a jury.

Respectfully submitted,

McKOOL SMITH P.C.

By: /s/ Mike McKool, Jr.

Mike McKool, Jr.

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